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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,617	12/16/2003	Tim Gorski	87345.2040	2667

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EXAMINER

MCCALL, ERIC SCOTT

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,617

Applicant(s)

GORSKI ET AL.

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31, 34 and 35 is/are rejected.
- 7) ☒ Claim(s) 32 and 33 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

**METHOD AND APPARATUS FOR TESTING FLUID
FLOW AND FLUSHING A TRANSMISSION COOLER**

FIRST OFFICE ACTION

CLAIMS

35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20, 22, and 24-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention because of;

- 1) A contradiction in claim 1 between the phrase “an air operated fluid pump” in the second to last line in the claim and the phrase “the air pump” in the last line of the claim because an air operated fluid pump pumps fluid and not air, and
- 2) The word “it” is indefinite in claim 22 as to the proper meaning thereof.

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Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections because said claims fail to set forth the structural cooperative relationships between the elements as claimed. See MPEP § 2172.01.

As one example, how does the return line and the various elements coupled thereto relate to the other elements of claim 1?

Numerous other omissions occur throughout the said claims.

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 7, 9, 13, 21-31, 34, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Viken (Re. 36,650).

With regards to claim 1, Viken suggests an apparatus for testing fluid flow and flushing a transmission cooler as claimed, comprising:

a user interface panel (P);

a fluid supply line (H) and a fluid return line (D6/D7);

a pressure switch, a manual shut off valve, a filtering system (ie. transmission filter), and a flow switch coupled to the return line (fig. 2);

a reservoir tank (transmission pan of the transmission, T) for containing automatic transmission fluid and a heating element (the operation of the components of the transmission act as a heating element because the operation thereof heats the transmission fluid) located within the reservoir tank;

a fluid fill port (F) connected to the reservoir tank;

an air operated fluid pump (70) coupled to the reservoir tank; and

an air injection system (A1) coupled to the pump and the supply line.

With regards to claim 2, Viken suggests a flow meter (30) as claimed.

With regards to claim 3, Viken suggests a primary (28) and a secondary (10b) filter.

With regards to claim 6, the secondary filter (10b) of Viken is deemed as filtering smaller particles than the primary filter (28) as claimed because of the substances filtered by each of the filters.

With regards to claim 7, the secondary filter of Viken is deemed as comprising an automotive oil filter type as claimed because the Applicant has not set forth in the claim the boundaries of the meaning of an "automotive type filter".

With regards to claim 9, Viken suggests a reservoir lid (transmission pan) connected to a reservoir tank (reservoir within the transmission which is enclosed by the transmission pan).

With regards to claim 13, Viken discloses a fluid fill port (F) connected to the reservoir tank.

With regards to claim 21, Viken suggests a method of testing fluid flow and/or flushing a transmission cooler comprising:

providing a supply of automatic transmission fluid to cycle through a transmission cooler;
heating the supply of automatic transmission fluid (via the operation of the engine and transmission);

supplying the automatic transmission fluid through a fluid supply line (H) connected to a line of a transmission cooler;

re-circulating the automatic transmission fluid from a line of the transmission cooler into a connected fluid return line (D6/D7);

filtering the re-circulated automatic transmission fluid (via the transmission filter); and
returning the filtered automatic transmission fluid back into the supply (H) of automatic transmission fluid.

With regards to claim 22, Vikens suggests injecting pulses of air (10) into the automatic transmission fluid as the fluid circulates through the transmission cooler.

With regards to claim 23, Viken suggests monitoring a fluid flow rate (30) as claimed.

With regard to claims 24-26, Vikes suggests an automated continuous cycling of the automatic transmission fluid through the transmission cooler for an adjustable prescribed time period (Fig. 1).

With regards to claim 27, Vikes teaches a system for testing fluid flow and/or flushing a transmission cooler comprising:

means for supplying automatic transmission fluid (H, Fig. 1) to cycle through a transmission cooler (C);

means for heating the supply means of automatic transmission fluid (via the operation of the transmission);

means for progressing the automatic transmission fluid through a fluid supply line connected to an out line of a transmission cooler (Fig. 1);

means for re-circulating the automatic transmission fluid from an in line of the transmission cooler into a connected fluid return line (Fig. 1);

means for filtering the re-circulated automatic transmission fluid (via the transmission filter); and

means for returning the filtered automatic transmission fluid back into the supply of automatic transmission fluid (constant circulation of transmission fluid).

With regard to claims 28 and 30, Vikens suggests a means for injecting pulses of air (10) via an air inject valve (12) into the automatic transmission fluid as the fluid circulates through the transmission cooler.

With regards to claim 29, Vikens suggests an air pump (10) as claimed.

With regards to claim 31, Viken suggests a primary (28) and a secondary (10b) filter.

With regards to claim 34, the secondary filter (10b) of Viken is deemed as filtering smaller particles than the primary filter (28) as claimed because of the substances filtered by each of the filters.

With regards to claim 35, the secondary filter of Viken is deemed as comprising an automotive oil filter type as claimed because the Applicant has not set forth in the claim the boundaries of the meaning of an “automotive type filter”.

35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Viken (Re. 36,650).

Viken fails to teach a temperature sensor for detecting the temperature of the automatic transmission fluid.

However, the use of automatic transmission fluid temperature sensors are very well known and commonly used in the art.

As such, it would have been obvious to one having ordinary skill in the art to modify the teaching of Viken by including a temperature sensor that detects the temperature of the automatic transmission fluid.

The motivation being that the use of an automatic transmission fluid temperature sensor allows for the constant monitoring of the transmission fluid temperature in order to ensure the proper operation thereof and to help prevent any costly repairs.

Allowable Subject Matter

Claims 4, 5, 8, 10, 12, and 14-20 are objected to as being dependent upon a rejected base claim, but would be allowable if amended to overcome the above rejections under 35 USC 112 and rewritten in independent form including all of the limitations of the base claim and any intervening claims.

With respect to claim 4 (and thus claim 5), the prior art fails to teach a primary filter having a strainer basket with a mesh insert as claimed in combination with the limitations of the claims from which said claim depends.

With respect to claim 8, the prior art fails to teach an air injection system comprising a solenoid valve as defined by the claim in combination with the limitations of the claim from which said claim depends.

With respect to claim 10, the prior art fails to teach a float type liquid level for detecting the amount of automatic transmission fluid in the reservoir tank in combination with the limitations of the claims from which said claim depends.

With respect to claim 12 (and thus claims 14-17), the prior art fails to teach a user interface panel as defined by the claim in combination with the limitations of the claim from which said claim depends.

With respect to claim 18, the prior art fails to teach the flow switch automatically shutting down the apparatus, as defined by the claim, if a minimum flow rate is not detected in the fluid return line in combination with the limitations of the claim from which said claim depends.

With respect to claim 19, the prior art fails to teach the pressure switch automatically shutting down the apparatus, as defined by the claim, if a pressure is above a given value in combination with the limitations of the claim from which said claim depends.

With respect to claim 20, the prior art fails to teach automatically shutting down the apparatus, as defined by the claim, when a manual shut off valve is closed in combination with the limitations of the claim from which said claim depends.

Claims 32 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims because the prior art fails to teach a primary filter having a strainer basket with a mesh insert as claimed in combination with the limitations of the claims from which said claim depends.

CITED REFERENCES

The Applicant's attention is directed to the enclosed "PTO-892" form for the prior art made of record at the time of this action.


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CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric S. McCall
Primary Examiner
Art Unit 2855
March 01, 2005